

State of Arizona  
Senate  
Forty-seventh Legislature  
Second Regular Session  
2006

# SENATE BILL 1458

AN ACT

AMENDING TITLE 42, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-2077; RELATING TO TAXPAYERS' BILL OF RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 42, chapter 2, article 2, Arizona Revised Statutes,  
3 is amended by adding section 42-2077, to read:

4 42-2077. New interpretation or application of law: affirmative  
5 defense; definition

6 A. UNLESS EXPRESSLY AUTHORIZED BY LAW, THE DEPARTMENT SHALL NOT APPLY  
7 ANY NEWLY ENACTED LEGISLATION RETROACTIVELY OR IN A MANNER THAT WILL PENALIZE  
8 A TAXPAYER FOR COMPLYING WITH PRIOR LAW.

9 B. IF THE DEPARTMENT ADOPTS A NEW INTERPRETATION OR APPLICATION OF ANY  
10 PROVISION OF THIS TITLE OR TITLE 43 OR DETERMINES THAT ANY OF THOSE  
11 PROVISIONS APPLIES TO A NEW OR ADDITIONAL CATEGORY OR TYPE OF TAXPAYER, AND  
12 THE CHANGE IN INTERPRETATION OR APPLICATION IS NOT DUE TO A CHANGE IN THE  
13 LAW:

14 1. THE CHANGE IN INTERPRETATION OR APPLICATION APPLIES PROSPECTIVELY  
15 ONLY UNLESS IT IS FAVORABLE TO TAXPAYERS.

16 2. THE DEPARTMENT SHALL NOT ASSESS ANY TAX, PENALTY OR INTEREST  
17 RETROACTIVELY BASED ON THE CHANGE IN INTERPRETATION OR APPLICATION.

18 3. THE CHANGE IS AN AFFIRMATIVE DEFENSE IN ANY ADMINISTRATIVE OR  
19 JUDICIAL ACTION FOR RETROACTIVE ASSESSMENT OF TAX, INTEREST AND PENALTIES TO  
20 TAXABLE PERIODS BEFORE THE NEW INTERPRETATION OR APPLICATION WAS ADOPTED.

21 C. TAX LIABILITIES, PENALTIES AND INTEREST PAID BEFORE A NEW  
22 INTERPRETATION OR APPLICATION OF CHAPTER 5 OF THIS TITLE BY THE DEPARTMENT  
23 SHALL NOT BE REFUNDED UNLESS THE TAXPAYER REQUESTING THE REFUND PROVIDES  
24 EVIDENCE SATISFACTORY TO THE DEPARTMENT THAT THE AMOUNTS WILL BE REFUNDED TO  
25 THE PERSON WHO PAID AN ADDED CHARGE TO COVER THE TAX.

26 D. FOR THE PURPOSES OF THIS SECTION, "NEW INTERPRETATION OR  
27 APPLICATION" INCLUDES POLICIES AND PROCEDURES ADOPTED BY ADMINISTRATIVE RULE,  
28 TAX RULING, TAX PROCEDURE OR INSTRUCTIONS TO A TAX RETURN.